UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

Civil Action No. 05-40104-FDS

ROBERT WHITE,

Petitioner,

v.)

UNITED STATES BANKRUPTCY COURT)
FOR THE DISTRICT OF)
MASSACHUSETTS, THE HONORABLE)
HENRY J. BOROFF, UNITED STATES)
MARSHAL FOR THE DISTRICT OF)
MASSACHUSETTS, AND LOCAL OR)
FEDERAL JAIL OR PRISON WHERE)
PETITIONER IS HELD,)

Respondents.

NOTICE OF RELEASE AND MOTION TO DISMISS

The Respondents in the above-captioned matter hereby provide notice to the Court that the United States Marshal for the District of Massachusetts ("U.S. Marshal"), at the instruction of the Bankruptcy Court, released the Petitioner, Robert White, from its custody on August 10, 2005, after Petitioner complied with the Bankruptcy Court's August 9, 2005 Order. See Order of Bankruptcy Court, dated August 9, 2005, attached at Exhibit ("Exh.") A; Order of Bankruptcy Court, dated August 10, 2005, attached at Exh. B.

The Petitioner sought to be released from his confinement, which the Bankruptcy Court imposed for his violation of an order of the court. Because Petitioner is no longer in the U.S. Marshal's custody, this action is now moot and this Court lacks the jurisdiction to address the petition. See North Carolina v.

Rice, 404 U.S. 244, 246 (1971) (federal courts lack constitutional power to decide "questions that cannot affect the rights of litigants in the case before them."); United States v. Reid, 369 F.3d 619, 624 (1st Cir. 2004) (a justiciable controversy that existed at one time, but no longer remains, is moot). Accordingly, the Court should dismiss the petition for mootness.

Respectfully submitted, MICHAEL J. SULLIVAN United States Attorney

By: <u>/s/ Damian W. Wilmot</u>

DAMIAN W. WILMOT

Assistant U.S. Attorney Moakley Federal Courthouse

Boston, MA 02210 (617) 748-3100

Dated: August 10, 2005

CERTIFICATION UNDER L.R. 7.1

Because Petitioner is acting pro se in this action, counsel for the United States respectfully requests leave to file this Motion without a 7.1 conference. It is the undersigned's position that because the Petitioner is *pro se* a 7.1 conference is unnecessary, as that Rule pertains to "counsel."

/s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I certify that on August 10, 2005, I caused a copy of the foregoing Memorandum to be served on Petitioner by first class mail, postage pre-paid to Robert White, 243-A North Maple Avenue, Mantela, CA 95336.

/s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney

UNITED STATES BANKRUPTCY COURT, DISTRICT OF MASSACHUSETTS Proceeding Memorandum/Order of Court

In Re: CK Liquidation Corporation Case Number: 03-44906 Ch: 7

MOVANT/APPLICANT/PARTIES:

#498 Motion of Chapter 7 Trustee for Contempt against Robert White John A. Burdick, Jr., Esq. Michael Goldberg, Esq. Robert White, Pro Se

COME:				
Granted	Denied	Approved	Sustained	
Denied	Denied wit	hout prejudice_	Withdraw	n in open courtOverruled
OSC enfor	ced/released	l		
Continued	Continued to:		For:	
Formal or	_Formal order/stipulation to be subr		ted by:	Date due:
Findings	and conclusi	ons dictated at	close of hea	aring incorporated by reference
_Taken und	Taken under advise ment: Brief(s) due			From
		Response(s)	due	From
_Fees allowed in the amount of: \$				Expenses of: \$
No appear	ance/respons	e by:		

DECISION SET OUT MORE FULLY BY COURT AS FOLLOWS:

Robert White remains committed to the custody of the United States Marshal for the District of Massachusetts until the earliest of :

- 1) such time as Robert White shall pay the sum of \$3,500.00 to attorney John Burdick, as Chapter 7 trustee of CK Liquidation Corp; or
- 2) such time as Robert White shall have liquidated in arms-length sales all motor vehicles to which he has title and remitted the proceeds thereof to attorney Burdick as Chapter 7 trustee; or
- 3) such time as Robert White shall have conveyed his right, title and interest in all motor vehicles to which he has title to John Burdick, as Chapter 7 trustee of CK Liquidation Corp.; or
- 4) September 27, 2005.

OTTEGOT ET

The Chapter 7 trustee shall forthwith provide to Robert White such documents of conveyance as shall enable Robert White to convey to the trustee the aforesaid motor vehicles. If, prior to September 27, 2005, any of the aforesaid first three conditions above are satisfied, the trustee shall forthwith file an emergency motion with this Court requesting that Robert White be released from the custody of the United States Marshal.

If Robert White shall remain in this custody of the United States Marshal on September 27, 2005, the United States Marshal shall deliver him to this Court sitting in Worcester, Massachusetts on September 27, 2005 at 2:00pm, at which time this Court shall determine what further actions should be taken in respect of this matter, including, without limitation, monetary sanctions and/or continued incarceration.

IT IS SO NOTED:

IT IS SO ORDERED:

Henry Jal Bergf

Henry J. Boroff, U.S. Bankruptcy Judge

Dated: 08/09/2005

Courtroom Deputy

UNITED STATES BANKRUPTCY COURT, DISTRICT OF MASSACHUSETTS Proceeding Memorandum/Order of Court

Ch: 7 Case Number: 03-44906 In Re: CK Liquidation Corporation MOVANT/APPLICANT/PARTIES: #498 Motion of Chapter 7 Trustee for Contempt against Robert White John A. Burdick, Jr., Esq. Michael Goldberg, Esq. Robert White, Pro Se **OUTCOME:** ____Granted____Denied___Approved____Sustained _Denied____Denied without prejudice_____Withdrawn in open court_____Overruled OSC enforced/released Continued to: ____For: _____Date due: _____ Continued to: ___Findings and conclusions dictated at close of hearing incorporated by reference Taken under advise ment: Brief(s) due______From____ Response(s) due ____From____ Fees allowed in the amount of: \$______Expenses of: \$_____

Having executed documents of conveyance of motor vehicles in which he has an interest to the Chapter 7 trustee in accordance with this Court's order of even date, Robert White may be released by the United States Marshal as of 9:00 a.m. on August 10, 2005 from the office of the United States Marshal in Worcester.

No appearance/response by:_____ ✓ DECISION SET OUT MORE FULLY BY COURT AS FOLLOWS:

An evidentiary hearing on the status of Robert White's compliance with this Court's sanction order of May 23, 2005 is continued to February 7, 2006 at 2:00 p.m. in Worcester, Massachusetts in order to determine whether any balance of such sanction remains. If so, the Court shall then determine what further actions should be taken in respect of this matter, including, without limitation, monetary sanctions and/or continued incarceration.

IT IS SO NOTED:

IT IS SO ORDERED:

Hong fel Bereff ______Dated: 08/09/2005 Henry J. Boroff, U.S. Bankruptcy Judge